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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. CAA-5- 2001-011
)	
Rogers Group, Incorporated)	Proceeding to Assess a
Bloomington, Indiana,)	Civil Penalty under
)	Section 113(d) of the
Respondent.)	Clean Air Act,
)	42 U.S.C. § 7413(d)
)	

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.

3. The Respondent is Rogers Group, Incorporated (Rogers), a corporation doing business in Indiana.

Statutory and Regulatory Background

4. On June 17, 1987, under Section 110 of the Act, 42 U.S.C. § 7410, U.S. EPA approved the visible emissions regulation 325 IAC 5-1 as part of the federally enforceable State Implementation Plan (SIP) for Indiana. 52 Fed. Reg. 23,032 (1987). U.S. EPA approved the recodification of this rule as 326 IAC 5-1 on June 15, 1995. 60 Fed. Reg. 31,412 (1995). U.S. EPA also approved minor revisions to 326 IAC 5-1 on April 16, 1997. 62 Fed. Reg. 18,523 (1997).

5. 326 IAC 5-1-2 prohibits the discharge of visible emissions in excess of an average of 40 percent opacity in 24 consecutive readings from any subject source or facility located in an attainment area for particulate matter, as determined by the procedures contained in 326 IAC 5-1.

6. The NSPS for Standards of Performance for Nonmetallic Mineral Processing Plants provides that all facilities under paragraph § 60.670(a) that commenced construction, reconstruction or modification after August 31, 1983 are subject to Subpart 000. A bagging operation is a subject facility.

7. 40 C.F.R. Part 60 § 60.11 requires that compliance with the standards in this part, other than opacity standards, shall be determined in accordance with performance tests established by § 60.8, unless otherwise specified in the applicable standard, and that affected facilities shall be operated and maintained in a manner consistent with good air pollution control practice for minimizing emissions.

8. Pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), the Administrator and the Attorney General have jointly determined that this matter is appropriate for an administrative penalty action, and have authorized U.S. EPA to include in this administrative penalty action violations which allegedly began more than 12 months prior to filing of this administrative action.

9. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for violations of the Act that occurred on

or after January 31, 1997, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

General Allegations

10. Paragraphs 1-9 are incorporated herein by reference.

11. The Respondent in this proceeding is Rogers.

12. Respondent is a Tennessee corporation, registered to do business in the State of Indiana, with a place of business located at 1100 Oard Road, Bloomington, Indiana.

13. Rogers is a "person" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

14. Rogers owns and operates a limestone quarry, crushed stone plant, specialty products plant and a hot mix asphalt plant located in Bloomington, Indiana.

15. Rogers' crushed stone and specialty products plants contain conveyors and a rotary drier with a baghouse.

16. Rogers' conveyors and rotary drier with a baghouse emit particulate matter.

17. Particulate emissions from Rogers' conveyors and rotary drier with a baghouse are subject to the visible emissions provisions of the Indiana SIP at 326 IAC 5-1.

18. Rogers' specialty products plant contains a 50# Sack Bagger.

19. Rogers' 50# Sack Bagger commenced construction, reconstruction or modification after August 31, 1983 and is subject to the New Source Performance Standards (NSPS) Subpart 000 under paragraph § 60.670(a).

20. Bagging operations from Rogers' 50# Sack Bagger are subject to the performance testing requirements provisions of § 60.672(b) which requires that on and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under § 60.11 of this part, the subject facility be tested.

21. The initial startup date for Rogers' 50# Sack Bagger is April 27, 1999.

22. On April 7, 1999, U.S. EPA representatives conducted an inspection of Rogers' Bloomington facility, and observed visible emissions from Rogers' Tail of Belt 1 Transfer Point, Belt 1 to Belt 2 Transfer Point, Drier Baghouse Stack and Tail of 3 North Transfer Point.

23. On April 29, 1999, U.S. EPA issued a Request for Information pursuant to Section 114 of the Clean Air Act.

24. Rogers Group provided the requested information pursuant to Section 114 of the Clean Air Act and it was received by U.S. EPA on June 2, 1999 and August 6, 1999.

25. On December 16, 1999, U.S. EPA issued a Notice of Violation and Finding of Violation to Rogers based on its observations during the April 7, 1999 inspection and the information provided by Rogers Group on June 2, 1999 and August 6, 1999.

26. On January 28, 2000, representatives of U.S. EPA and Rogers held a conference to discuss the December 16, 1999 Notice of Violation and Finding of Violation.

27. Rogers submitted follow-up information after the conference that was received by U.S. EPA on February 24, 2000.

28. On June 7, 2000, a U.S. EPA representative conducted an inspection of Rogers' Bloomington facility, and observed visible emissions from Rogers' Belt 1 to Belt 2 Transfer Point and Tail of 3 North Transfer Point.

Count I

29. Complainant incorporates paragraphs 1 through 28 of this complaint, as if set forth in this paragraph.

30. During the April 7, 1999 inspection, U.S. EPA conducted observations of the opacity of the emissions from the Tail of Belt 1 Transfer Point at the Specialty Products Plant, in accordance with the procedures specified in 326 IAC 5-1-4.

31. U.S. EPA calculated the opacity readings it collected into the following six-minute averages: 58.6%, 59.0%, 49.4%, 64.2%, and 64.4%.

32. Based on the April 7, 1999 opacity readings, U.S. EPA has determined that Rogers discharged visible emissions into the atmosphere that exhibited greater than 40 percent opacity in 24 consecutive readings from the Tail of Belt 1 Transfer Point.

33. Rogers' discharge from the Tail of Belt 1 Transfer Point of visible emissions into the atmosphere that exhibited greater than 40 percent opacity in 24 consecutive readings constitutes a violation of 326 IAC 5-1 and of the Act.